



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

LESLIE TUCKER,

vs.

JACKIE MCGEE,

Defendants.

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§ CIVIL ACTION NO.

9:21-01343-MGL-MHC

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
DISMISSING PLAINTIFF'S FEDERAL CLAIMS WITH PREJUDICE,
AND DISMISSING ANY STATE CLAIMS WITHOUT PREJUDICE**

Plaintiff Leslie Tucker (Tucker) filed this 42 U.S.C. § 1983 action against Defendant Jackie McGee. The matter is before the Court for review of the Report and Recommendation of the United States Magistrate Judge suggesting this action be dismissed with prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 20, 2021, but Tucker failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

Therefore, after a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court, adopts the Report to the extent it does not contradict this order and incorporates it herein. Therefore, it is the judgment of this Court Tucker’s federal claims are **DISMISSED WITH PREJUDICE** and without issuance and service of process.

To the extent Tucker has brought any state claims, however, those claims are **DISMISSED WITHOUT PREJUDICE** so that he may bring them in state court if he wishes to do so.

IT IS SO ORDERED.

Signed this 25th day of October, 2021, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Tucker is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.